

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL,
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

----- Acting Chairman

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

CLAIM PETITION NO. 40/NB/DB/2025

Kishori Lal Aged about 53 years S/o Sri Gusai Ram, presently posted as Conductor Kathgodam Depot Uttarakhand Transport Corporation R/o Village Ranibagh Kathgodam, Haldwani District- Nainital 263126.

..... **Petitioner**

Vs.

1. State of Uttarakhand through Principal Secretary Transport, Dehradun.
2. Uttarakhand Transport Corporation, Dehradun through its Managing Director, Headquarter U.C.F. House Deep Nagar Road Vishnu Vihar Dehradun.
3. Regional Manager (Operation) Uttarakhand Transport Corporation Kathgodam.

.....**Respondents**

Present: Sri M.C.Pant, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondent no. 1
Sri Prem Kaushal, Advocate for the respondents no. 2 & 3

JUDGMENT

DATED: JULY 15, 2026

PER: HON'BLE SRI A.S.RAWAT, VICE CHAIRMAN (A)

By means of present claim petition, the petitioner seeks the following reliefs:

“(i) To issue appropriate orders and quash the order dated 21-04-2025 along with charge sheet dated 02-06-2025, after calling

the entire records from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

(ii) To issue appropriate orders by directing the respondents to correct the seniority of the petitioner and promote him on the post of booking clerk from the date when his juniors were promoted had it been the impugned orders are never in existence or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

(iii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Earlier, the petitioner had filed claim petition no. 33/NB/DB/2025, Kishori Lal vs. State of Uttarakhand & others, which was disposed of by this Tribunal vide judgment and order dated 01.05.2025. As the brief facts of the case are already mentioned in the judgment, therefore, relevant paragraphs of the said judgment are being reproduced herein below for avoiding repetition of the facts:

"This claim petition has been filed for the following reliefs:

"(i) To issue order or direction appropriate in nature and direct the respondent no. 2 and 3 to correct the seniority of the petitioner and place him at serial no. 134A just above to the private respondents as per his regularization date i.e. 19-12-2013 not from the date of reinstatement i.e. 17-02-2017 and comply the directions of the Hon'ble High court by which the Hon'ble High Court given all consequential benefits, after calling the entire records from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

(ii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The brief facts of the case as follows:

2.1 The petitioner was appointed on 19.05.1999 as a contract Conductor in the erstwhile Uttar Pradesh Road Transport

Corporation. The services of the petitioner were regularized by the respondent corporation on the post of Conductor vide order dated 19.12.2013 and issued a list of the conductors whose services were regularized and it is mentioned in the regularization order that the seniority will be fixed later.

2.2 In the year of 2015, the respondent corporation started disciplinary proceedings against the petitioner and terminated his service vide order dated 22.04.2015 on the ground of the invalid educational qualification. The petitioner challenged the order of termination before the Hon'ble High Court and the Hon'ble High Court vide judgment and order dated 17.10.2016 allowed the special appeal no. 272 of 2015 and quashed the show cause notice dated 26.03.2015 and termination order dated 22-04-2015 and granted all consequential benefits, granting liberty to the corporation to hold an enquiry in view of the Regulations, 1981.

2.3 Thereafter, the petitioner represented to the respondent corporation for his reinstatement. The respondent corporation reinstated the petitioner in service on 17.02.2017.

2.4 The respondent corporation issued a tentative seniority list of the conductors of Nainital Region on 07.02.2022, for which, no objections were invited. The petitioner was placed at serial no. 315 in the tentative seniority on the basis of his rejoining date i.e. 17.02.2017. Since the respondents have not called any objections thus the petitioner believing that in future objections will be called then he will submit his objections against his seniority and object his seniority position at serial no.315 because his regularization date is 19-12-2013. His juniors namely Shabab Ali, Sachin, Gaurav Joshi and Rakesh Gusain whose regularization date is 20.12.2013 are shown at serial no. 135, 136, 137 and 139 respectively and the petitioner is admittedly senior to them because his date of regularization is 19.12.2013.

2.5 It is submitted that pursuant to the liberty given by the Hon'ble High Court, the respondent corporation initiated disciplinary proceedings against the petitioner and given him charge sheet and

thereafter enquiry was conducted. The enquiry officer exonerated the petitioner from the charges and based on the enquiry report the disciplinary authority vide order dated 13.02.2025 exonerated the petitioner and closed the disciplinary proceedings.

2.6 It is further submitted that during pendency of his disciplinary proceedings, the respondent corporation without finalizing the tentative seniority dated 07-02-2022 promoted the private respondents on the post of booking clerk in the year of 2023. The respondents have not finalized the seniority list till date and again promoted the Conductors on the basis of tentative seniority list. At the first process of promotion for the year 2023, the respondent corporation did not consider the petitioner for promotion due to the pendency of the departmental proceedings. The respondent authorities did not adopt the seal cover process and deprived the petitioner from advancement in service which is against the law and rule. Now, the petitioner has been exonerated from the charges and he is eligible to regain his seniority above to Shabab Ali.

2.7 It has further been submitted that the petitioner has moved representation dated 17.02.2025 to the respondent no.3 requesting to correct his seniority and also granting him promotion on the post of Booking Clerk from the date when his juniors were promoted. But of no avail. The respondent corporation again initiated the promotion process on the post of Booking Clerk and despite of the fact that the petitioner was exonerated in the departmental proceedings has not forwarded his name for promotion and not corrected seniority in the tentative seniority list of the petitioner and again promoted the persons who are junior to the petitioner. The respondents have ignored this fact that the Hon'ble High Court while reinstating the petitioner has granted all the consequential benefits including seniority w.e.f. his regularization order i.e. 19.12.2013 but the respondents deliberately shown his seniority from the date of reinstatement i.e. 17.02.2017.

3. After hearing learned Counsel for the parties on admission, we feel that there is substance in the submissions of learned

Counsel for the petitioner. Since the petitioner has already moved representation on 17.02.2025 for his grievances before the respondent authorities, on which, no decision has been taken and it would be appropriate that the respondent authorities should take a suitable decision on the pending representation of the petitioner. Learned Counsel for the petitioner also agreed that the respondent authorities may kindly be directed to take decision on the pending representation of the petitioner, as early as possible.

4. Learned Counsel for the contesting respondents have no objections, if a direction be given to the respondent authorities to decide the pending representation of the petitioner.

5. In view of the above, the claim petition is disposed of, at the admission stage, by directing the respondents no. 2 & 3, to decide the pending representation of the petitioner, by a reasoned and speaking order, in accordance with law, within a period of two months of presentation of certified copy of this order. The petitioner, if aggrieved by the decision of the respondent authorities, may approach the Tribunal. No order as to costs."

2.1. The petitioner on 05-05-2025 submitted the representation along with the certified copy of the judgment and order dated 01-05-2025 to the respondent no.3. However, the respondent no.2 passed the impugned order by back dating 21-04-2025 by mentioning the representation of the petitioner and ordered for re-enquiry by appointing another disciplinary authority. The impugned order dated 21-04-2025 was deliberately served to the petitioner on 03-06-2025 and the chargesheet was also served on 04-06-2025. It is further mentioned that in the second charge sheet dated 02-06-2025 the charges are more and less same as earlier.

2.2 It is also submitted that this Tribunal in claim petition no. 56/NB/DB/2023 "Rajkamal Vs State of Uttarakhand and others" vide judgment and order dated 03-02-2025 has held that "*terminating the services of the petitioner on the basis of invalid qualification, after 29 years long service in the department, which has never been interfered*

in the past is itself wrong". In the aforesaid case, the qualification of that petitioner was also from Hindi Sahitya Sammelan, Allahabad. Thus, the case of the petitioner is also covered by the same analogy and the impugned orders are liable to quashed.

2.3 It has also been stated that on the application of the petitioner, the public information officer, Kumoun University Nainital vide letter dated 06-09-2023 supplied the copy of the letter dated 14-10-2004 of the Registrar, Kumoun University written to H.O.D. Arts D.S.B. Campus Nainital in which the Registrar, Kumoun University has mentioned that the certificates of Madhyma Visharad from Hindi Sahitya Sammelan Allahabad are valid for admission in Bachelor first Year.

2.4 The Hon'ble Apex Court and the various Hon'ble High Courts has passed catena of judgments in which it is held that after exoneration in departmental proceedings no order for re-enquiry be issued. In this regard the High Court of Uttarakhand in writ petition no. 114 of 2024 "Rajendra Singh Vs. State of Uttarakhand and others" vide order dated 31-01-2024 stayed the order of re-enquiry on the same charges by following the judgments of the Hon'ble Apex Court in the case of Kanailal Bera Vs. Union of India and others, (2007) 11 SCC 517, as well as the judgment of the Rajasthan High Court in the case of Dwarkachand Vs. State of Rajasthan, RLW 1957 587, in which the Hon'ble Court has held that the authority cannot go with the re-enquiry once in an earlier enquiry the employee has been exonerated. The A.C.Rs. of the petitioner from the year 2014 to 2018 are good and he is eligible for promotion but the respondent corporation is depriving the petitioner from his legal right.

3. Counter Affidavit has been filed on behalf of the contesting respondents no. 2 & 3 mainly contending that:-

3.1 The claim petition has been filed by Shri Kishori Lal, Operator, Kathgodam Depot for cancelling the order dated 21.04.2025 of the

Corporation Headquarters, Dehradun and the charge sheet dated 02.06.2025 issued by the Assistant General Manager, Kathgodam and to promote him by seniority. It is submitted that the educational qualification certificate submitted by the petitioner during his appointment which is Madhyama (Visharda) second part of Hindi Sahitya Sammelan, Allahabad, dated 25.05.1998 has been issued to which, the General Manager (Personnel), Uttarakhand Transport Corporation Headquarters, Dehradun has been informed by letter number 335/111 Educational Qualification Hindi Sahitya Sammelan Governing Circular-14 dated 02.12.2014 that vide Uttarakhand Government's letter number 234 dated 21.10.2014, at present, the Madhyama examination presented by the said Board is not valid in the State of Uttarakhand. While the minimum educational qualification for the post of departmental conductor is passing the Intermediate from a recognized Board. The Deputy Secretary, Council of Secondary Education, Uttar Pradesh, Allahabad has also written in the letter dated 05.05.2017 that the Prathama/Madhyama (Visharad) examination conducted by Hindi Sahitya Sammelan, Allahabad was neither valid in the past nor is valid at present as equivalent to the High School/Intermediate examination of the Secondary Education Council, Uttar Pradesh.

3.2 The disciplinary case file of the petitioner was inspected from the corporation headquarters level under the provisions provided in Regulation 69 of the Uttarakhand Transport Corporation Employees (other than officers) Service Regulations 2015. After examination, it was found that the petitioner had submitted the mark sheet and degree certificate (self-certified) of passing the Madhyama (Visharad) second part of Hindi Sahitya Sammelan, Allahabad in second division in the year 1996 at the time of regular appointment and regularization on the post of conductor. In the context of Uttarakhand Government's letter number 234 dated 21.01.2014 and in compliance with the instructions received through Corporation Headquarters' letter number 335/111 Educational Qualification Hindi Sahitya Sammelan

Governing Circular-14 dated 02.12.2014, the petitioner was removed from service by Assistant General Manager, Kathgodam by order number 1351 dated 22.04.2015. Against the said order of termination of service, the petitioner filed writ petition number 850/2015 in Hon'ble High Court, Nainital, in which Hon'ble High Court, Nainital passed the judgment on 21.05.2015 and ordered that "The court finds that the relief, which has been claimed in the writ petition, can well be availed under the statutory efficacious remedy. Thus, the petition is directed to be returned to the petitioner for redressal before the appropriate forum.

3.3 Against the order dated 21.06.2015 of the Hon'ble High Court, Nainital, Special Appeal No. 272/2015 was filed by the petitioner in which the Hon'ble High Court on 17.10.2016 passed the judgement that *"Learned counsel for the appellant has drawn the attention of this court towards the U.P. Road Transport Corporation employees (Other than officers) service Regulations, 1981 whereby a domestic inquiry was required to be held against the employee for misconduct. The services of a regular employee cannot be terminated merely by issuing a show cause notice. Accordingly, the appeal is allowed. The show cause notice dated 26.03.2015 as well as the termination order dated 22.04.2015 are quashed and set aside. The appellant shall be entitled for all the consequential benefits. A liberty is also granted to the Corporation to hold an inquiry in view of the regulations referred here in above.*

3.4 In compliance of the said decision, the Assistant General Manager, Kathgodam, by order no. 2258 dated 17.02.2017 reinstated the petitioner and posted him at Kathgodam Depot. In the said order, a detailed investigation on the legality of the High School Certificate (Intermediate) Examination 1996, Hindi Sahitya Sammelan, Allahabad was also orderd, on the basis of which, action for regularization of his services would be required in future.

3.5 The Assistant General Manager, Kathgodam issued charge sheet No. 1494 dated 30.11.2017 to the petitioner and charges were levelled against him for presenting fake educational certificates. The inquiry officer has investigated the above charges only with respect as to whether the said certificates are fake or not and the petitioner was not found guilty of the charges leveled against him and orders of acquittal were passed.

3.6 The allegations levelled against the petitioner by the Corporation Headquarters, Dehradun vide letter dated 21.04.2025 (which has been challenged by the petitioner) under the office letter no. 1494 dated 30.11.2017 of Assistant General Manager, Kathgodam were not considered correct because the educational qualification certificates presented by the petitioner are not fake but are invalid for regular appointment to the post of Conductor. Due to this, the order dated 13.02.2025 passed, the investigation proceedings were cancelled with immediate effect due to being tainted and orders were issued to dispose of the case as soon as possible.

3.7 In compliance of the above order of the Corporation Headquarters, a charge sheet dated 02.06.2025 was issued against the petitioner by the Assistant General Manager, Kathgodam and the present investigation proceedings of the petitioner are in progress and only after its disposal, action will be taken on the basis of merits and demerits for promotion/financial benefits. In view of the above, the claim petition filed by the petitioner is liable to be dismissed. No C.A./W.S. has been filed on behalf of the State. Learned A.P.O. appearing for the State is also in agreement with the version of the Respondent Corporation.

4. Learned Counsel for the petitioner has also filed Rejoinder Affidavit denying the contents of the Counter Affidavit, which have not specifically been admitted and has reiterated the averments made in the claim petition.

5. We have heard learned Counsel for the parties and perused the record carefully.

6. Learned Counsel for the petitioner has filed written arguments and has also orally argued the case. It has been argued that the petitioner was initially appointed on 19.05.1999 as a conductor and his services were regularized vide order dated 19.12.2013. In the year 2015, the respondents issued a show cause notice to the petitioner and terminated his service on the alleged ground of invalid (forged) educational qualification and passed a termination order dated 22.04.2015. The petitioner challenged the same before the Hon'ble High Court and the Hon'ble Court vide judgment dated 17.10.2016 quashed the show cause notice and termination order and granted all consequential benefits, while giving liberty to the respondents to conduct a fresh enquiry strictly in accordance with law. The petitioner was reinstated on 17.02.2017.

6.1 Learned counsel for the petitioner further argued that respondents issued a tentative seniority list dated 07.02.2022 reckoning the seniority of the petitioner from the date of reinstatement i.e. 17.02.2017 instead of date of regularization i.e. 19/12/2013. The respondents conducted promotions in the year 2023 to the post of booking clerk on the basis of tentative seniority list and promoted several juniors of the petitioner. A full-fledged enquiry was conducted and upon conclusion thereof, the Inquiry Officer categorically held that the charges against the petitioner were not proved. The disciplinary authority accepted the findings and passed an order dated 13.02.2025 exonerating the petitioner and closing the proceedings.

6.2 The respondent no.2 vide order dated 21.04.2025, cancelled the exoneration order dated 13.02.2025 and directed a fresh enquiry on the same set of charges. A fresh charge sheet dated 02.06.2025 on identical charges was issued. This action of the respondents clearly demonstrates that they have deliberately sought to perpetuate disciplinary proceedings, so as to keep the petitioner out of the zone

of consideration. The rules governing the petitioner do not permit the reopening of concluded disciplinary proceedings. The action of the respondents in cancelling the exoneration order and directing a fresh enquiry, followed by issuance of a second charge-sheet on identical allegations, is ex- facie illegal as the same is in direct contravention of the rules governing the service conditions of the petitioner. So, the impugned actions deserve to be set aside.

6.3 In support of this case, the petitioner has cited the following judgments:

- i. The judgment dated 03.02.2025 passed by this Tribunal in Claim petition No. 56/NB/DB/2023, Rajkamal vs. State of Uttarakhand & Ors.
- ii. Union of India & Ors. vs. K.Suri Babu, 2023 0 INSC 1033
- iii. Gajendra Singh Bisht & others vs. Sri Dhurendra Pal & others, 2010 (1) UAD 736
- iv. Buddhi Nath Chaudhary & others vs. Abahi Kumar & others, 2001(2) Supreme 138
- v. Dr. M.S. Mudhol and another vs. S.D. Halegkar and others, 1993 0 Supreme (SC) 555,

7. Learned Counsel for the contesting respondents no. 2 & 3 argued that the petitioner has submitted to cancel the order dated 21/4/2025 and Charge sheet dated 02/6/2025 and to promote him by seniority. He has submitted certificate issued by Hindi Sahitya Sammelan, Allahabad in support of his attaining qualification of intermediate which is required for the post of the Conductor. The AGM, Personnel was informed vide Uttarakhand Governments letter dated 21/10/2014 that the Madhyama examination by the said board is not valid in Uttarakhand. This information was provided by the Council of the Secondary Education, Uttar Pradesh, Allahabad vide letter dated 5/5/2017 also. The petitioner was removed from the service for submitting a fake certificate in 1996 for regularization on the post of Conductor. It is further argued that the Hon'ble High Court quashed the show cause notice dated 26/03/2015 and also the termination

order dated 22/04/2015 of the respondents and ordered to reinstate the petitioner with all the consequential benefits and also gave liberty to the respondents to hold enquiry in view of the *U.P. Transport Corporation employees (Other than Officers) Service Regulation, 1981*.

7.1 It has further been argued that the petitioner was reappointed on 17/02/2017 as per the order of the Hon'ble High Court but it was also decided to conduct detailed investigation on the legality of the Madhyama certificate to finally settle the matter related to regularization. The petitioner was issued charge sheet, the inquiry officer conducted the enquiry and the petitioner was not found guilty of the charges. The allegations against the petitioner were cancelled and orders were issued to dispose of the case as soon as possible. As the investigation in respect of the charges levelled against the petitioner is in progress action regarding promotion and financial benefits will be taken on the outcome of the enquiry. Learned A.P.O. also supports the arguments made on behalf of the contesting respondents. In view of the facts mentioned above, the claim petition is liable to be dismissed.

8. On the basis of the aforesaid arguments, it is clear that the disciplinary proceeding was initiated against the petitioner on the order of the Hon'ble High Court while quashing the show cause notice issued vide letter dated 17.02.2017 and the order of termination passed on 22.04.2015. The petitioner was reappointed on the order of the Hon'ble High Court. The respondents issued a tentative seniority list and started the promotion of the employees. Many employees who were junior to the petitioner were also promoted in the process. In the meantime, a disciplinary proceeding was also started against the petitioner as per the liberty given in the aforesaid order of the Hon'ble High Court. The petitioner was exonerated in the Disciplinary proceedings as the charges could not be proved against him in the inquiry. The petitioner again submitted representations to place him at proper place in the seniority list and promote him. But the respondents did not reply, then he approached this Tribunal. The

Tribunal vide judgement and the order dated 01.05.2025 in the Claim petition No. 33/NB/DB/2025 directed the respondents to decide the representation of the petitioner.

9. The Managing Director (Respondent No.2) on his own accord called the records of the case and passed an order dated 21/04/2025, cancelling the charge sheet issued against the petitioner and the order passed by the AGM Kathgodam dated 13/2/2025 and ordered to reinstate a disciplinary proceeding against petitioner. In pursuance to the order of the Managing Director a disciplinary proceeding was reinstated against him more or less on the same charges as in the earlier proceedings. The petitioner has requested to quash the order dated 21.04.2025, charge sheet issued against him on 02.06.2025 and also provide him seniority.

10. The petitioner has relied on the following judgements of the Hon'ble High Court of Uttarakhand and other courts in support of relief sought by him:

10.1 In the judgment and order dated 03.02.2025, passed by this Tribunal in **Clam petition No. 56/NB/DB/2023, Rajkamal vs. State of Uttarakhand & Ors**, it has been ordered that- *terminating the services of the petitioner on the ground of invalid qualification after 29 years long service in the department which has never been interfered in the past is itself wrong.*

10.2 In the case of **Union of India & Ors. vs. K.Suri Babu, 2023 0 INSC 1033**, the Honble Apex Court Held that-

17. The logical conclusion therefore would be that CCA Rules 1965 are the General Rules whereas Standing are the special Rules and the standing Orders would override the CCA rules 1965 . Moreover the standing orders cover a wide area of activities of the workmen specific yet in view of the section 13 B of 1946 Act a specific notification can be made applying CCA rules 1965 to that specific aspect. But a notification is necessary . In view of the Harishankar Jain (supra) this can be the only interpretation of section 13 B of 1946 Act

10.3 In the case of **Gajendra Singh Bisht & others vs. Sri Dhurendra Pal & others, 2010 (1) UAD 736**, Hon'ble High Court of Uttarakhand has held that-

11. ----- *The Apex court held that he was not having the essential qualification , yet declined to interfere with the appointment of the said Principles on the ground of inordinate delay in the challenge of this appointment (which was 9 years), and particularly when there was no fault on the part of the incumbent (as in the present case) , where he had not suppressed any material fact or committed fraud or forgery and mistake , if any was on the part of the authority , who had given the appointment. It is not even the case of the contesting respondents that the appellants have not been able to render satisfactory service on account of the alleged deficiency in their qualification. After having rendered long years of service on the promotional posts , by sheer experience , the appellants must be deemed to have overcome deficiency , if any in their eligibility.*

10.4 The Hon'ble Apex Court in the matter **Buddhi Nath Chaudhary & others vs. Abahi Kumar & others 2001 (2) Supreme 138** has held that:-

"6. The selected candidates, who have been appointed, are now in employment as Motor Vehicle Inspectors for over a decade. Now that they have worked in such posts for a long time, necessarily they would have acquired the requisite experience. Lack of experience, if any, at the time of recruitment is made good now. Therefore, the new exercise ordered by the High Court will only lead to anomalous results. Since we are disposing of these matters on equitable consideration, the learned counsel for the contesting respondents submitted that their cases for appointment should also be considered. It is not clear whether there is any vacancy for the post of Motor Vehicle Inspectors. If that is so, unless any one or more of the selected candidates are displaced, the cases of the contesting respondents cannot be considered. We think that such adjustment is not feasible for practical reasons. We have extended equitable considerations to such selected candidates who have worked in the post for a long period, but the contesting respondents do not come in that class. The effect of our conclusion is that appointments made long back pursuant to a selection need not be disturbed. Such a view can be derived from several decisions of this Court including the decisions in Ram Sarup vs. State of Haryana & Ors., 1979 (1) SCC 168; District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr. vs. M. Tripura Sundari Devi, 1990 (3) SCC 655; and H.C.Puttaswamy & Ors. vs. The Hon'ble Chief Justice

of Karnataka High Court, Bangalore & Ors., 1991 Supp. (2) SCC 421. Therefore, we must let the matters lie where they are.”

10.5 In the case of **Dr. M.S. Mudhol and another vs. S.D. Halegkar and others 1993 0 Supreme (SC) 555**, the Hon’ble Supreme Court has held that:-

“7.....This is particularly so when the incumbent has been discharging his functions continuously for over a long period of 9 years when the court was moved and today about 13 years have elapsed. The infraction of the statutory rule regarding the qualifications of the incumbent pointed out in the present case is along not that grave taking into consideration all other relevant facts. In the circumstances, we deem it unnecessary to go into the question as to whether a writ of quo warranto would lie in the present case or not, and further whether laches would disentitle the petitioners to such a writ.

8. However, we must make it clear that in the present case the 2nd respondent, Director of Education had committed a clear error of law in approving the academic qualification of the 1st respondent when he was not so qualified. As pointed out above, the interpretation placed by him and the other respondents on the requisite educational qualifications was not correct and the appointments made on the basis of such misinterpretation are liable to be quashed as being illegal. Let this be noted for future guidance.”

11. The petitioner has put on almost 14 years of service as conductor on contact basis before regularization. The respondents might have checked his qualification at the time of appointing him as a conductor on contact basis and at the time of regularization also. He was terminated in 2015 after putting more than 15 years of service. This has been proved in the first enquiry that he did not submit fake certificate to get the job of Conductor. No misrepresentation has also been proved in the enquiry. It was the fault of the department that his qualification was not scrutinized properly and he was appointed as conductor on contract basis and subsequently regularized also. Although, he did not have the require qualification, he acquired sufficient experience related to his job during the period of his engagement in the department. The matter related to his invalid qualification was never raised during 15 years of service before his termination. The respondents after reinstatement on the order of the

Hon'ble High Court, initiated departmental proceedings against him and he was exonerated in the disciplinary proceeding also. The Managing Director (Respondent no.2) on his own called the record, reviewed the case of the petitioner, cancelled the order of the disciplinary authority and ordered to reinstate inquiry against the petitioner. The charges sheet has been issued against the petitioner with similar charges with the little difference that he acquired the job on the basis of the invalid certificate as against earlier charge of fake certificate. So, raking up the issue of the invalid certificate after more than 15 years of service is totally unjustified.

12. Hence, in view of the above facts of the case as well as the aforesaid judgements of the Hon'ble Tribunal, High Courts and the Apex Court, the impugned order dated 21/4/2025 and the charge sheet dated 02/06/2025 are liable to be quashed and claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The impugned order dated 21/4/2025 and the charge sheet dated 02/06/2025 are hereby quashed. The respondents are directed to correct the seniority of the petitioner and promote him on the post of booking clerk from the date when his juniors were promoted. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(A.S.RAWAT)
VICE CHAIRMAN (A)

DATE: JULY 15, 2026
DEHRADUN.
KNP